



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TRG
Docket No: 2229-98
17 November 1999

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 9 November 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Navy on 23 July 1997 at age 25. The record shows that you satisfactorily completed initial training and on 5 October 1997 you reported aboard the USS ANZIO (CG 68). The documentation to support your separation processing is not filed in your service record. You were separated from the Navy with an uncharacterized entry level separation by reason of entry level performance and conduct on 23 December 1997. At that time you were not recommended for reenlistment and were assigned an RE-4 reenlistment code.

You state in your application, in effect, that you claimed to be homosexual in order to be separated from the Navy and did so because you were under stress due to the medical problems of your new born son. You contend that you are not homosexual and now desire to serve in the military.

Despite the absence of the separation processing documentation, the Board believed that it had sufficient documentation to decide your case given your admission that you committed a fraud in order to be separated from the Navy. It is well settled in the law that an individual who perpetrates a fraud in order to be

separated from the military should not benefit from that fraud when it is discovered. Further, given your admission of fraud, the Board could not be certain if you were lying then or are lying now. The Board concluded that the RE-4 reenlistment code was properly assigned and should not be changed. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director